

CARLSMITH BALL LLP

DAVID LEDGER (CNMI BAR NO. F0195)  
Carlsmith Ball LLP Building  
Capitol Hill  
Post Office Box 5241  
Saipan, MP 96950-5241  
Tel No. 670.322.3455

Attorneys for Defendant  
American Overseas Marine Corporation  
and General Dynamics Corporation

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN MARIANA ISLANDS

KENNETH COUTURE,

Plaintiff,

vs.

AMERICAN OVERSEAS MARINE  
CORPORATION and GENERAL  
DYNAMICS CORPORATION,

Defendants.

CIVIL ACTION NO. CV05-0024

**DEFENDANTS AMERICAN  
OVERSEAS MARINE CORPORATION  
AND GENERAL DYNAMICS  
CORPORATION'S EX PARTE  
MOTION UNDER LOCAL RULE 7.1.  
h.3(b) FOR AN ORDER GRANTING  
MOTION TO COMPEL ATTENDANCE  
OF PLAINTIFF AT SETTLEMENT  
CONFERENCE; MEMORANDUM IN  
SUPPORT OF MOTION;  
CERTIFICATE OF SERVICE**

**CONFERENCE DATE: MARCH 14,  
2007**

**TIME: 10:00 A.M.**

**JUDGE: ALEX R. MUNSON**

**DEFENDANTS AMERICAN OVERSEAS MARINE CORPORATION AND GENERAL  
DYNAMICS CORPORATION'S MOTION TO COMPEL ATTENDANCE OF  
PLAINTIFF AT SETTLEMENT CONFERENCE**

Defendants American Overseas Marine Corporation and General Dynamics Corporation,  
by and through their attorneys, Carlsmith Ball, hereby move this Court for an order compelling

1 Plaintiff to attend the Settlement Conference set for March 14, 2007.

2 **MEMORANDUM IN SUPPORT OF MOTION**

3 The Court has ordered a Settlement Conference to take place on March 14, 2007 at 10:00  
4 a.m.. The Order setting the Settlement Conference does not address attendance by the parties.

5 On the date of the Settlement Conference, Plaintiff will be on Saipan, on vacation from  
6 his employment on the vessel USNS JACK LUMMUS and, according plaintiff's attorneys, only  
7 "10 minutes away" from the courthouse. Defendants' representatives with settlement authority  
8 are, however, located on the U.S. East Coast and will be available to the Court by telephone to  
9 authorize or approve a settlement.  
10

11 Without offering any plausible explanation as to why, Plaintiff's attorneys have declined  
12 Defendants' request to have Plaintiff attend the Settlement Conference in person. Rather, the  
13 stated reason is "inconvenience" to the plaintiff. Litigation is inherently inconvenient and as  
14 such "inconvenience", especially in the case of a Saipan resident, is hardly justification for  
15 ignoring attendance at a settlement conference. Defendants request an order directing Plaintiff to  
16 appear in person at the Settlement Conference.  
17

18 Under Local Rule 16.2CJ(c)(5)(a) "[e]ach party shall be required to attend the settlement  
19 conference," either personally or through a representative with full authority to participate in  
20 settlement negotiations and to effect a complete compromise of the case." The Court "may  
21 require the attendance or availability of the parties, pursuant to Fed. R. Civ. P. 16(c)." LR  
22 16.2CJ(c)(5)(b). The purpose of personal attendance is to encourage an atmosphere of  
23 settlement through *personal participation* by the parties. The Court is able to maximize upon  
24 the parties' motivations to settle this case through requiring the parties to attend at their  
25 convenience. Plaintiff, in particular, will not be inconvenienced since he will already be on  
26 Saipan on vacation from work and otherwise readily available. If Defendant had a representative  
27  
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1 in Saipan with settlement authority that representative would appear in person. Defendants will  
2 have representatives on the telephone.

3 In the circumstances, Defendants respectfully seek an Order from the Court compelling  
4 Plaintiff to attend the Settlement Conference, in accordance with the goals of settlement  
5 conferences and the rationale behind LR 16.2CJ(c)(5). This rationale is particularly apropos in  
6 this instance as this settlement conference may well be the single remaining opportunity to settle  
7 this action before trial on April 9, 2007. There is much at stake, and Plaintiff will not be unduly  
8 burdened by being required to attend. To the contrary, plaintiff's opportunity to settle his case  
9 will be maximized by his own attendance.  
10

11 For the above reasons, it would be in the parties' best interests, as well as in the interest  
12 of this Court, to require plaintiff to attend.  
13

14 **CERTIFICATION PURSUANT TO LOCAL RULE 7.1.H(3)(B).**

15 Defendants have complied with the requirements for moving Ex Parte for an Order  
16 granting its Motion to Compel. Counsels' respective phone fax and office locations appear in  
17 this pleading.

18 The facts stated above establish the basis for this ex parte application.

19 On March 8, 2007, counsel for Plaintiff was emailed a copy of the Motion. However, the  
20 basis of the Motion has been the subject of discussions between counsel since March 1, with  
21 Plaintiff's counsel being advised via email on March 5, 2007, of a Motion to Compel Attendance  
22 to be imminently filed, and being advised via email on March 7, 2007, that it will be filed on an  
23 Ex Parte basis.  
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1 DATED: March 8, 2007.

2 CARLSMITH BALL LLP

3 /s/ David P. Ledger

4 DAVID LEDGER

5 Attorneys for Defendant

6 American Overseas Marine Corporation  
7 and General Dynamics Corporation

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 8th day of March 2007, I will cause to be served, via hand delivery, a true and correct copy of **DEFENDANTS AMERICAN OVERSEAS MARINE CORPORATION AND GENERAL DYNAMICS CORPORATION'S MOTION TO COMPEL ATTENDANCE OF PLAINTIFF AT SETTLEMENT CONFERENCE; MEMORANDUM IN SUPPORT OF MOTION** upon the following Counsels of record:

William M. Fitzgerald, Esq.  
Law Office of William M. Fitzgerald  
1st Floor, Macaranas Building  
Post Office Box 909  
Saipan, MP 96950

and

Bruce Berline, Esq.  
Law Office of Bruce Berline  
1st Floor, Macaranas Building  
Post Office Box 5682 CHRB  
Garapan, Saipan MP 96950

DATED: March 8, 2007.

/s/ David P. Ledger  
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DAVID LEDGER